

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas As Engrossed: S1/19/99 H1/28/99 H1/29/99

2 82nd General Assembly A Bill **Act 34 of 1999**

3 Regular Session, 1999 SENATE BILL 20

4

5 By: Senators Beebe, Harriman, Argue, Bearden, Bisbee, Bradford, Brown, Canada, Critcher, DeLay,
6 Edwards, Everett, Fitch, Gordon, Gwatney, Hill, Hoofman, Hopkins, Hunter, Kennedy, B. Lewellen,
7 Mahony, D. Malone, Riggs, Roebuck, Ross, Russ, Scott, K. Smith, B. Walker, Walters, Webb, Wilson,
8 Wooldridge

9 By: Representatives B. Johnson, Kidd, Agee, Angel, Bennett, Bevis, Biggs, Bledsoe, Bond, Bookout,
10 Broadway, Buchanan, Bush, Cleveland, Cook, Creekmore, Davis, Dees, Dugger, Elliott, Faris,
Ferguson,

11 Ferrell, Files, French, Gillespie, Gipson, Glover, Green, Gullett, Haak, Hale, Harris, Hathorn, Hausam,
12 Hendren, Hickinbotham, Horn, House, Hunt, Jacobs, G. Jeffress, J. Jeffress, Jones, Judy, King,
Lancaster,

13 Lavery, Lendall, Lynn, Magnus, P. Malone, McGehee, Milligan, Milum, Minton, Morris, Napper,
14 Oglesby, Pappas, Parks, Prater, Rackley, Salmon, Scrimshire, Seawel, Sheppard, Shoffner,
Simmons, M.

15 Smith, R. Smith, T. Smith, M. Steele, Taylor, Teague, *L. Thomas*, T. Thomas, Vess, W. Walker,
Weaver,

16 White, Wilkins, Wilkinson, Womack, Wood, *Booker, J. Lewellen*

17

18

19 **For An Act To Be Entitled**

20 "AN ACT TO REGULATE STATE EMPLOYMENT OF

21 CONSTITUTIONAL OFFICERS, AND THEIR SPOUSES; TO

22 ESTABLISH PROCEDURES TO BE FOLLOWED BY CONSTITUTIONAL

23 OFFICERS, AND THEIR SPOUSES, WHEN ENTERING INTO

24 GRANTS, CONTRACTS, OR LEASES WITH THE STATE; AND FOR

25 OTHER PURPOSES."

26

27 **Subtitle**

28 "REGULATING STATE EMPLOYMENT OF

29 CONSTITUTIONAL OFFICERS, AND THEIR

30 SPOUSES; ESTABLISHES PROCEDURES REGARDING

31 THEIR ENTERING INTO GRANTS, CONTRACTS OR

32 LEASES WITH THE STATE."

33

34 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

35

36 SECTION 1. For purposes of this act:

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1 (a) "State agency" means every board, commission, department, division,
2 institution, and other office of state government whether located within the
3 legislative, executive, or judicial branch of government and including state
4 supported colleges and universities.

5 (b) "Constitutional officer" means Governor, Lieutenant Governor,
6 Secretary of State, Treasurer of State, Attorney General, Commissioner of
7 State Lands, Auditor of State, member of the Arkansas House of
8 Representatives, and member of the Arkansas Senate.

9

10 SECTION 2. (a) (1) Subject to any restrictions or conditions
11 prescribed by the Arkansas Constitution, no person elected to a
12 constitutional office may, after being elected to the constitutional office,
13 and during the term for which elected, enter into employment with any state
14 agency or employment in any noncertified position with any public school
15 district of this state, any vocational education school funded by the state,
16 any education service cooperative, or the Cooperative Education Services
17 Coordinating Council unless the constitutional officer resigns prior to
18 entering into the employment.

19 (2) Subject to any restrictions or conditions prescribed by the
20 Arkansas Constitution, any constitutional officer who was employed by a state
21 agency prior to being elected a constitutional officer may continue such
22 employment but the employment shall not thereafter be reclassified unless it
23 is the result of a general reclassification affecting all positions of the
24 class and grade equally nor shall the constitutional officer receive any pay
25 increase for that employment other than the cost of living increases
26 authorized by the General Assembly without the prior approval of the Joint
27 Budget Committee during legislative sessions, the Legislative Council between
28 legislative sessions, and the Governor.

29 (b) No person whose spouse is elected to a constitutional office may,
30 after the spouse is elected to the constitutional office and during the term
31 for which the spouse is elected, enter into employment with any state agency
32 without the prior approval of the Joint Budget Committee during legislative
33 sessions, or the Legislative Council between legislative sessions, and the
34 Governor.

35 (c) This act does not prohibit the spouse of any constitutional
36 officer from being elected and serving in an elected office or from being

1 appointed to fill the vacancy in any elected office.

2 (d) Any person who was employed by a state agency prior to the
3 person's spouse being elected a constitutional officer and any person who
4 entered into employment with a state agency during the spouse's service as a
5 constitutional officer is subject to the following:

6 (1) that position shall not thereafter be reclassified unless it
7 is the result of a general reclassification affecting all positions of the
8 class and grade equally nor shall that person, while the spouse serves as a
9 constitutional officer or within two (2) years after the spouse leaves
10 office, be promoted or transferred without the prior approval of the Joint
11 Budget Committee during legislative sessions, or the Legislative Council
12 between legislative sessions, and the Governor; and

13 (2) that person shall not receive any pay increase in excess of
14 fifteen percent (15%) without the prior approval of the Joint Budget
15 Committee during legislative sessions, or the Legislative Council between
16 legislative sessions, and the Governor.

17 (e) Former members of the General Assembly and their spouses shall not
18 be eligible to be employed by any state agency within twenty-four (24) months
19 after the legislator leaves office in any job or position which:

20 (1) was newly created by legislative action within the twenty-
21 four months prior to the legislator leaving office; or

22 (2) had a maximum salary level increase of more than fifteen
23 percent (15%) authorized by legislative action within the twenty-four months
24 prior to the legislator leaving office.

25

26 SECTION 3. (a) No constitutional officer may enter into any lease
27 agreement, contract, or grant with any state agency unless it:

28 (1) is awarded as a result of competitive bidding or a request
29 for proposal and the member played no role, directly or indirectly, in the
30 administrative determination of specifications for the bid or request for
31 proposal, in the administrative evaluation or consideration of bid or request
32 for proposal, or in the administrative decision to accept the bid or request
33 for proposal; or

34 (2) if competitive bidding or a request for proposal was not
35 required by law, has received the prior approval of the Joint Budget
36 Committee during legislative sessions, or the Legislative Council between

1 legislative sessions, and the Governor.
2 (b) No constitutional officer may receive any subgrant, subcontract,
3 or assignment of any lease with a state agency unless the constitutional
4 officer:
5 (1) is disclosed as a subgrantee or subcontractor in the
6 competitive bid or request for proposal; or
7 (2) if competitive bidding or a request for proposal was not
8 required by law, receives prior approval from the Joint Budget Committee
9 during legislative sessions, or the Legislative Council between legislative
10 sessions, and the Governor.
11 (c) This section is not intended to require competitive bidding for
12 architectural, engineering, medical, or legal services or other professional
13 or consultant services obtained under subchapter 17, chapter 4, title 19 of
14 the Arkansas Code. Such professional and consultant services contracts
15 obtained by constitutional officers or their spouses must receive prior
16 approval of the Joint Budget Committee during legislative sessions, or the
17 Legislative Council between legislative sessions, and the Governor.
18 (d) The restrictions of subsections (a) and (b) of this section also
19 apply to spouses of constitutional officers, and to any corporation, limited
20 liability company, partnership or any other legal entity of which a
21 constitutional officer or the constitutional officer's spouse has an
22 ownership interest of at least ten percent (10%).
23 (e) If a constitutional officer, a constitutional officer's spouse, or
24 an entity listed in subsection (d), becomes the recipient of a grant,
25 contract or lease through competitive bidding or a request for proposal, the
26 awarding state agency shall give written notice of the selection of the
27 constitutional officer, constitutional officer's spouse or entity to the
28 Joint Budget Committee during legislative sessions, or the Legislative
29 Council between legislative sessions, and the Governor.
30 (f) Grants, contracts and leases entered into prior to the person
31 becoming a constitutional officer are not subject to this section, but
32 renewals and extensions of those grants, contracts and leases are subject to
33 the provisions of this section.
34
35 SECTION 4. The Director of the Department of Finance and
36 Administration is authorized to promulgate and implement any necessary rules,

1 regulations or policies to insure compliance with this act subject to the
2 prior review and approval of the Joint Budget Committee during legislative
3 sessions and the Legislative Council between legislative sessions.

7 All

4 disclosure statements and other information required to be furnished by
5 constitutional officers and their spouses shall be certified by the
6 constitutional officer or spouse under penalty of perjury.

8 SECTION 5. (a) Any willful and knowing violation of this act shall
9 constitute a Class D felony.

10 (b) The violation of any rule, regulation or policy promulgated by the
11 Department of Finance and Administration under this act or the failure of a
12 constitutional officer or spouse of a constitutional officer to disclose his
13 or her interest in any contract, grant or lease agreement or in any
14 subcontract, subgrant, or assignment of lease as required herein or as
15 required by any rule, regulation, or policy of the Department of Finance and
16 Administration shall be grounds for voiding the contract, grant, lease
17 agreement, subcontract, subgrant, or lease assignment and the constitutional
18 officer or spouse may be required to refund any monies received thereunder.

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20 SECTION 6. The venue for the judicial proceedings for violating
21 Section 5(a) shall be in the county of the defendant's domicile.

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23 SECTION 7. A person whose spouse is elected to a constitutional office
24 may be employed by a state agency without the approval of the employment
25 required by Section 2(b) if the person's entry salary does not exceed the
26 amount prescribed by level 4 of grade 13 of the state pay plan found in
27 Arkansas Code 21-5-209 as now or hereafter amended.

28

29 SECTION 8. The Arkansas Ethics Commission is hereby authorized to
30 investigate any complaints or allegations of violations of these provisions
31 and to make findings thereon. In the investigation of such matters, the
32 Commission is specifically given all authority and powers as granted to it
33 under the provisions of Arkansas Code 7-6-217 and 7-6-218.

34

35 SECTION 9. All provisions of this act of a general and permanent
36 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas

1 Code Revision Commission shall incorporate the same in the Code.

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3 SECTION 10. If any provision of this act or the application thereof to
4 any person or circumstance is held invalid, such invalidity shall not affect
5 other provisions or applications of the act which can be given effect without
6 the invalid provision or application, and to this end the provisions of this
7 act are declared to be severable.

8

9 SECTION 11. All laws and parts of laws in conflict with this act are
10 hereby repealed.

11

12 SECTION 12. EMERGENCY. It is hereby found and determined by the
13 General Assembly that there is an immediate need to establish restrictions
14 and procedures regarding constitutional officers becoming employees of the
15 state or entering into grants, contracts or leases with the state; that this
16 act establishes those restrictions and procedures; and that this act should
17 go into effect as soon as possible to help restore the public confidence in
18 state government. Therefore, an emergency is declared to exist and this act
19 being immediately necessary for the preservation of the public peace, health
20 and safety shall become effective on the date of its approval by the
21 Governor. If the bill is neither approved nor vetoed by the Governor, it
22 shall become effective on the expiration of the period of time during which
23 the Governor may veto the bill. If the bill is vetoed by the Governor and
24 the veto is overridden, it shall become effective on the date the last house
25 overrides the veto.

26 /s/ Beebe

27 APPROVED: 2/9/1999